



MAYOR AND COUNCIL WORKSESSION

NO. 3 DEPT.: Community Planning and Development Services DATE: Sept. 14, 2004
CONTACT: Bob Spalding/Deane Mellander

SUBJECT FOR DISCUSSION: Worksession to discuss possible options for amending or revising the zoning ordinance for the optional method of development in the Town Center zones

ORDER OF DISCUSSION: Staff presentation of potential options, and background information

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED: The Mayor and Council has requested the staff to review the current methodology for approval of optional method applications in the Town Center zones. The Mayor and Council has expressed concerns that the City is receiving insufficient public benefit as a result of optional method approvals. In response, the Planning staff has prepared a memo (attached) which reviews the current procedures and suggests four possible alternative approaches for amending the optional method procedures. In brief, these options are as follows:

1. Amend the current regulations to establish specific criteria under which an optional method application may be considered.
2. Create new zones to replace the optional method that can be applied by comprehensive rezoning.
3. Create new floating zones, which could require submission of a development plan with the rezoning application.
4. Amend the Comprehensive Planned Development process to make it applicable to Town Center projects.

In the memo, the staff has also provided a list of possible amenity options that could be considered as part of an optional method consideration. Staff requests direction on whether there are other items that should be included, and also what the priorities should be considered.

The staff has attached a suggested amendment to the development standards table for the Town Center zones, illustrating possible changes to the current process. Also attached for comparison are portions of the Montgomery County Zoning Ordinance for the Central Business District zones which have both a standard and optional method process, and other background materials.

The staff hopes to get direction from the Mayor and Council on which of these zoning options are preferred, or whether a combination might be in order. There also needs to be direction on timing, i.e., whether to move forward with a text amendment in the near term, or include amendments as

part of the forth-coming comprehensive revisions to the Citys' Zoning Ordinance.

LIST OF ATTACHMENTS: Staff Memo of 9/14/04



City of Rockville

MEMORANDUM

September 14, 2004

TO: Mayor and Council

FROM: Deane Mellander, Planner III *DM*

VIA: Art Chambers, AICP, Director, Community Planning and Development Services

SUBJECT: Considerations for Optional Method Development

Background

The City amended its optional method procedures for the Town Center zones in 1993, to create a two-step process. The optional method of development currently requires review of a Preliminary Development Plan by the Mayor and Council. The PDP review includes conceptual approval of an overall development plan, a floor area ratio based on the total land area included in the application, major uses designated, approval of new lots, streets, public and semi-public open spaces and pedestrian circulation, sidewalks, and urban design review and approval. Densities would be allocated to individual lots based on the approved concept plan, and increased building heights were available. A staging plan can also be considered (see attached). Following approval of a PDP, the Planning Commission would then move to consideration of the use permit and final record plat.

In a memo of March 23, 2004, the different types of optional method developments contained in the County's zoning ordinance were outlined. In essence, they work in a similar manner to the City's provisions: The developer has the right to request use of the optional method, provided some basic requirements (such as lot size) are met. In the County's Central Business District (CBD) zones, the optional method requires provision of greater on-site open space, additional public facilities and amenities, and demonstration of consistency with the relevant master or sector plan.

Revision Considerations

When the optional method of development was created it set increased requirements that developments must meet to be approved. Section 25-682 requires:

1. 2-acre minimum lot size - to encourage lot assemblage to allow for coordinated development.
2. Submission of a traffic study and mitigation that is acceptable to the Mayor and Council.
3. An urban design review process - to ensure compliance with the urban design standards of the master plan.
4. Shadows shall not be cast on residential structures on December 21 between 10 am and 2 pm.
5. A mix of uses including "at least residential, office, and commercial components. The Mayor and Council may waive this. This requirement was meant to encourage the provision of residences at a time when there was no multi-family residential construction occurring in the Town Center. Economic factors have changed and residential development has stronger market support than office and retail development.
6. Provision of a system of pedestrian ways.

These components were designed to achieve a number of City goals including lot assemblage, mitigation of traffic impacts, ensuring high quality urban design, minimizing impact on the amount of sunlight received by nearby residences, a mix of uses - particularly to include residential development, and pedestrian accessibility. Some of these increased standards are now typical of most developments and no longer appear to be above-and-beyond what is required for non-optional method developments. In addition, the Mayor and Council, the Planning Commission, and citizens have shown interest in furthering other goals through the approval of optional method development projects. Those additional goals include but are not limited to publicly accessible open space, parkland, wider sidewalks, additional art, affordable housing (including senior housing), and undergrounding of utilities.

There are a number of different approaches to structure the optional method of development to further different goals. The 4 primary approaches are described below. Under any of the approaches the City needs to establish which goals need to be addressed in an optional method of development application. Then the City needs to establish whether those goals are met by:

- achieving a simple threshold (e.g. must include residential development)
- or by
- establishing some form of sliding scale of additional floor area or height based on the amount of additional public open space (e.g., 10 square feet of floor area per square foot of parkland) or other amenity.

As part of this, we need to consider the kinds of amenities or mitigation measures that could be utilized to achieve the bonus densities. These may include:

- Public amenity spaces
- Parkland
- Pedestrian amenities
- Traffic reduction measures, beyond the normal mitigation measures

- Provide additional MPDU's beyond the minimum requirement
- Community use/cultural arts space

1. Amend the Current Optional Method of Development

The first option would be to amend the current optional method process and the relevant zones to provide specific criteria to be met before qualifying for the optional method. Such criteria could include specific locations, minimum (or maximum) lot area, distance from residential areas, consistency with the master plan, etc. These criteria would have to be clear and concise, so as not be vulnerable to legal challenge. It may well be that in order to provide some specific requirements, the City may need to either amend the master plan or adopt a more specific set of design standards. The chart in Attachment 1 provides a suggested amendment to the development standards to help achieve the desired results.

2. Create New Zones Without an Optional Method

The second approach would involve creating additional zones within the City's current zoning scheme that can be applied by comprehensive zoning and eliminating the optional method. The high-density zones could include specific standards and requirements that would help offset the perceived impact of the higher densities. The County essentially did this when it created the CBD zones with the highest densities at the core and "tenting" down towards the edge of the CBD. The original CBD-1, 2 and 3 zones were eventually supplemented by a CBD-0.5 zone to help achieve further transition to the surrounding neighborhoods. The optional method development standards for the County CBD zones are attached.

3. Create Floating Zones

A third avenue of approach, similar to the above, would be to create new "floating" zones (never before used in the City). Such zones would be like the planned development zones in the County, wherein the applicant must provide a development plan as a part of the application, which is binding upon approval of the application. Floating zones have the advantage that they do not require proof of "change or mistake". It is best if the master plan provides specific guidance as to what levels and varieties of development are suitable or desirable in certain locations.

4. Amend the Comprehensive Planned Development Process

Finally, another approach would be to use some variation the Comprehensive Planned Development (CPD) process instead of the optional method. The process is similar to what would be required in a floating zone application, and affords the Mayor and Council the opportunity to create a public record on the decision-making process. In order to make this work, we would likely have to change the affected zones to eliminate the optional method and

make them straight Euclidean zones. We may also want, or need, to amend the master plan to provide some degree of guidance as to where such CPD development would be appropriate, beyond those sites already designated. Using this process for small sites in the Town Center would necessarily require alterations to the current process. This might involve amending the types of land uses allowed as well.

Further Actions

While the focus of these changes is on the Town Center zones, we should keep in mind that we may wish to consider these changes in a broader context. The goal of most optional methods of development, whether in the Rockville Pike zones or even the PRU's, is to achieve a better, more community-friendly form of development than would be the case under the conventional Euclidean zoning standards. This broader context should most likely occur as a part of the comprehensive zoning ordinance review process.

- Attachments:
1. Montgomery County CBD Zones Development Standards
 2. Suggested amendments to Town Center Zones Standards
 3. Background information

Attachment 1

Suggested Amendments to the Optional Method of Development in the TCM Zones

Zone	Setback Requirements (10)					Side			Rear		Minimum Width			Height	
	Minimum Lot Area (Square Feet)	(10) Maximum Lot Coverage	(9) Floor Area Ratio	Public Right-of-Way	Non-residential Land Abutting	(4) Residential Land Abutting	Non-residential Land Abutting	(4) Residential Land Abutting	At Front Setback Line	At Front Lot Line	Average	Normal Maximum	Maximum By Optional		
TCO Zones Not Affected															
TCM-1 Std.	-	-	1.0	(7)(12) None Required	None required; minimum 10' if provided	-	None required; minimum 10' if provided	-	-	-	-	45'	-		
TCM-1 Opt. (14)	20,000	90% (11)	3.0	(12)	None required; minimum 10' if provided	-	None required; minimum 10' if provided	-	-	100'	-	-	75'		
TCM-2 Std.	-	-	2	(13) None Required	None required; minimum 10' if provided	-	None required; minimum 10' if provided	-	-	-	-	75'	-		
TCM-2 Opt. (14)	20,000	90% (11)	(3) 4.0	(13)	None required; minimum 10' if provided	-	None required; minimum 10' if provided	-	-	100'	-	-	150'		

New Footnotes:

11. A minimum of 10% of the net lot area must be set aside for publicly-accessible green area.
Additional public facilities and amenities may be required as recommended in the Plan.
12. There must be a minimum setback of 15 feet from the back of curb to the building face.
13. There must be a minimum setback of 20 feet from the back of curb to the building face.
14. A building legally existing as of (date of adoption) that exceeds the requirements of this section is not a development nonconformity and may be structurally altered, repaired, or replaced so long as remains lawful as previously allowed. Any additions to the existing structure or site modifications must conform to the current standards.

§59-C-6.2

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- (c) In the CBD-2 zone it is further the purpose:
- (1) To provide a density and intensity of development which will permit an appropriate transition from the cores of central business districts to the less dense peripheral areas within and adjacent to the districts; and
 - (2) To provide an incentive for the development of residential uses to meet the needs of those employed within the central business districts and those who will be able to use the district transit facilities to travel to and from places of employment.

59-C-6.214. Location. Except for existing and proposed public rights-of-way and privately owned railroad rights-of-way, as shown on an approved and adopted master or sector plan, no land shall be classified in any central business district zone unless it lies within a central business district as defined in section 59-A-2.1 and is recommended for that zone on an approved and adopted master plan or sector plan.

59-C-6.215. Methods of development and approval procedures. Two methods of development are possible in each of these zones. Under both methods of development the maximum dwelling unit density allowed by Section 59-C-6.23 may be increased to accommodate the construction of Moderately Priced Dwelling Units in accordance with Chapter 25A.

- (a) **Standard method of development.** The standard method requires compliance with a specific set of development standards and permits a range of uses and a density compatible with these standards. If residential uses are included in a development, the number of moderately priced dwelling units must be at least 12.5 percent of the total number of dwelling units in accordance with Chapter 25A.
- (b) **Optional method.** Under the optional method greater densities may be permitted and there are fewer specific standards, but certain public facilities and amenities must be provided by the developer. The presence of these facilities and amenities is intended to make possible the creation of an environment capable of supporting the greater densities and intensities of development permitted. If residential uses are included in a development, the number of moderately priced dwelling units must be at least 12.5 percent of the total number of dwelling units in accordance with chapter 25A. The procedure for the approval of the use of the optional method is set forth in Division 59-D-2, and site plans must be submitted and approved in accordance with Division 59-D-3.

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²⁵ A dry cleaning and laundry establishment larger than 3,000 square feet of gross floor area which existed on June 23, 2003 is a conforming use and may be continued, structurally altered, repaired or reconstructed, if the floor area devoted to the use is not increased, extended or enlarged beyond the floor area devoted to the use on June 23, 2003. If a dry cleaning and laundry establishment larger than 3,000 square feet of gross floor area remains under the same ownership and control, it may relocate as a conforming use to another permitted site in any zone where it could have located before June 23, 2003. Otherwise, a dry cleaning and laundry establishment that discontinues operations for more than six months must not be reestablished. However, a dry cleaning and laundry establishment that discontinues operations because of a fire, flood, natural disaster, or other event beyond the owner's control may be reestablished no later than one year after it last operated.

59-C-6.23. Development standards.

The development standards applicable to the standard and optional methods of development, indicated by the letters "S" and "O" in each of the zones are set forth in this section.⁸

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S ⁹	O	S ⁹	O	S	O
59-C-6.231. Minimum Area of Lot (in thousands of square feet):		22		22		22		22		22		22
59-C-6.232. Maximum Building Coverage (percent of net lot area):	50 ¹⁴		75		75		75		75		75	
59-C-6.233. Minimum Public Use Space (percent of net lot area): ¹⁵	10	20	10	20 ¹⁶	10	20 ²⁰	10	20	10	20	10	20
—If special regulations concerning moderately priced dwelling units set forth in section 59- C-6.215(a) are used this may be reduced to:					5		5		5			

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	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S ⁹	O	S ⁹	O	S	O
59-C-6.234. Maximum Density of Development.												
(a) Standard method of development (see section 59- C-6.215 (a))												
(i) For projects that are 100 percent residential (dwelling units per acre):	35		43		43		80		120		80	
(ii) For commercial or mixed use projects:												
Maximum permitted non residential, including transient lodging (FAR):	0.5 ^{10, 14}		1		1 ¹⁰		2 ¹⁰		3 ¹⁰		1 ¹⁸	
Total FAR ¹⁵	1		1		2		3		4		1	
(b) Optional method of development (see section 59- C-6.215(b)):												

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	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S ⁹	O	S ⁹	O	S	O
The Planning Board may permit not more than the following densities, but in no case more than the density recommended by the sector plan.												
(1) Residential (dwelling units per acre):		100		125		125		200		200		200
(2) Nonresidential, including transient lodging (FAR):		1				2 ¹⁹		4		6		
(3) Mixed residential and nonresidential.												
—Nonresidential, including transient lodging (FAR)		1 ⁴		.6 ^{7, 17}		2 ⁴		3 ⁴		5 ⁶		1 ^{3, 18}
—Total FAR ^{13, 15}		1.5		3		3		5		8		5 ³
59-C-6.235. Maximum Building Heights (in feet).												
(a) Standard method of development.												
—Normally:	45		60		60		60		72		60	

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	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S ⁹	O	S	O	S ⁹	O	S ⁹	O	S ⁹	O	S	O
—If adjoining or directly across a street from land which is recommended for or developed in a residential zone with a maximum density of less than 15 dwelling units per acre:	35		35		35							
plus an additional 8 feet for air conditioners or similar rooftop structures and mechanical appurtenances pursuant to division 59-B-1(b).												
(b) Optional method of development.												
—Normally:		60		60		60		143		143		143
—If approved by the Planning Board in the process of site plan or combined urban renewal project plan approval as not adversely affecting surrounding properties, height may be increased to:		60 ¹²		143		90 ¹		200 ¹¹		200		200

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§59-C-6.2

For projects using the optional method of development involving more than one lot under Section 59-C-6.2351, the Planning Board may approve height over 90 feet, but not more than 143 feet. In order to approve height over 90 feet, the Planning Board must find that:

- (1) The additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan;
- (2) The additional height is consistent with the criteria and guidelines for the property as contained in the applicable sector plan or urban renewal plan;
- (3) Except as recommended in an urban renewal plan the portion of the property upon which the additional height is to be used is on all sides abutted by or adjacent to property recommended in the applicable sector plan or urban renewal plan for classification in the CBD-0.5, CBD-1, CBD-2, or CBD-3 zones;
- (4) The proposed development is compatible with the surrounding development, considering but not limited to the relationship of the building or buildings to the surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height of the building; and
- (5) The proposed development will produce a substantial amount of consolidated public open space in excess of that which would be required if this process were not used. The public open space must be designated as public amenity space and be accessible to and usable by the public in accordance with the applicable sector or master plan, or urban renewal plan.

Nonresidential structures in existence at the time the property is placed in the zone, that exceed the normal limit imposed for such uses will not be regarded as nonconforming and may be repaired, remodeled, or replaced so long as there is no increase in the amount of floor area.

In order to provide services to residents and continuity of retail street frontage activity, at least 5 percent of the gross floor area must consist of retail or personal service commercial uses. The Planning Board may waive a portion of this requirement during the course of project plan approval upon a finding that full compliance with this requirement is not practical, feasible, or would result in such uses being required on other than the ground or first floor. A hotel or motel up to FAR 1 is permitted. A hotel or motel with up to 3 FAR may be allowed where recommended as appropriate in the relevant sector plan.

Not to exceed 67 percent of the gross floor area.

Not to exceed 60 percent of the gross floor area.

Not to exceed 62.5 percent of the gross floor area.

Not to exceed 20 percent of the gross floor area.

All provisions of Section 59-C-18.10, entitled the Wheaton Retail Preservation Overlay Zone, shall continue in effect and remain unaltered, except that additional FAR for residential density may be included in a standard method project, provided the restrictions on the utilization of street level space for multi-story buildings constructed or reconstructed after July 16, 1990 are followed.

Additional density for housing purposes may be permitted, so long as the degree of nonconformity from the setback (59-C-6.231), lot coverage (59-C-6.232), and the public open space (59-C-6.233) requirements is not increased. The maximum density cannot exceed the density provisions in section (59-C-6.234)(a)(ii).

Development that exceeds this FAR is subject to the procedures set forth in Div. D-3.

Under the optional method of development process, the Planning Board may approve height over 143 feet, but not more than 200 feet. In order to approve height over 143 feet, the Planning Board must find that:

- (1) The additional height is specifically recommended for the property in the applicable sector plan or urban renewal plan;

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- (2) The additional height is consistent with the criteria and guidelines for the property as contained in the applicable sector plan or an urban renewal plan approved by the County Council under Chapter 56, or in the case of a site outside an urban renewal area, accomplishing the objectives of incorporating residential development with limited commercial development in a mixed use project in close proximity to a metro station otherwise unobtainable due to site conditions, proximity of adjacent non-residential buildings, or other physical constraints which prevent the achievement of sector plan objectives;
- (3) The proposed development is compatible with the surrounding development, considering but not limited to the relationship of the building or buildings to the surrounding uses, the need to preserve light and air for the residents of the development and residents of surrounding properties, and any other factors relevant to the height of the building; and
- (4) The proposed development will provide additional public facilities and amenities beyond what could otherwise have been provided if the excess height were not approved. Such facilities must be accessible to and usable by the public in accordance with the applicable sector or master plan or urban renewal plan.

The Planning Board may approve height over 60 feet, but not more than 90 feet, if the additional height is consistent with an applicable sector plan or an approved urban renewal plan.

An historic resource recommended in the relevant master or sector plan to be preserved and reused, which does not occupy more than 10% of the gross floor area, is excluded from the FAR calculation.

Subject to the provisions of Sec. 59-C-6.2353, the maximum permitted nonresidential development may be increased to FAR 1 and the maximum building coverage to 75%.

May be exceeded under the special regulations of Sec. 59-C-6.2354.

This requirement may either be reduced by the Planning Board, or satisfied by the provision of off-site public use space or improvements to existing public use space, if the site will be owned and occupied by a nonprofit organization that provides needed child care and adult day care services under a partnership agreement with the Montgomery County Department of Health and Human Services in effect on December 31, 1999. If the requirements of this paragraph for a public use space reduction cannot be met by an occupant of the site, an amended project plan must be submitted and the Planning Board may require the project plan applicant to provide off-site public use space or improvements to existing public use space.

The FAR may be increased to FAR 1.2 by the Planning Board if the site will be owned and occupied by a nonprofit organization that provides needed child care and adult day care services in cooperation with the Montgomery County Department of Health and Human Services that is in effect on December 31, 1999.

On sites of 10 contiguous acres or more, the amount of non-residential development is limited to a maximum of 450,000 gross square feet.

In the case of a telephone office or communications center that exists on April 22, 2003, a maximum density of 2.3 FAR is permitted.

In the case of an expansion of a telephone office communications center that exists on April 22, 2003, if the applicant demonstrates to the Planning Board's satisfaction that public use space cannot be provided on-site, the Planning Board may authorize off site public use space or improvements to existing public use space.

59-C-6.2351. Special standards for optional method of development projects involving more than one lot. The Planning Board may approve a request for optional method of development for more than one lot in accordance with the findings required for project plan approval contained in Section 59-D-2.42(g) and the following additional requirements:

New fund would enhance downtown Bethesda

From: The Gazette Newspapers

New fund would enhance downtown Bethesda

by Ellyn Pak
Staff Writer

July 14, 2004

Bethesda leaders say the money that downtown developers are required to provide for certain amenities should be given to a specific fund to pay for more useful public spaces.

The idea of such an amenity fund to improve downtown Bethesda has been discussed among residential and business leaders in the past few decades, but now leaders are taking steps to bring the idea to fruition, said Jack Hayes, a longtime Bethesda resident.

The fund would allow developers of mixed-use projects in downtown Bethesda to forego including the required public spaces on their property and instead use that money to enhance the Woodmont Triangle. Currently, developers of projects that include a mix of residential, retail and office are required to use 20 percent of the property's space for a public amenity like underground utilities, open space, street lighting or streetscape.

"We want to ensure that the streets stay people-friendly," said Hayes, vice president of the East Bethesda Citizens Association and one of many people who have worked recently to push the idea.

The fund, to which developers could make tax-deductible contributions, could be used to improve Norfolk Avenue, create an "arts incubator" building that would provide affordable studio space for artists or build an art park dedicated to live entertainment.

The county Planning Board will discuss on July 29 an amendment to the Woodmont Triangle's sector plan, in which the proposal for an amenity fund is included. If approved, the idea will go to the County Council, which has the final say in any changes to sectors plan.

Carol Trawick, a Bethesda businesswoman and activist, said the Bethesda Arts and Entertainment District, which is managed by the Bethesda Urban Partnership, would maintain the fund and allow the county government to retain its oversight.

She said the workshops this year and last, which were held by county planners to gauge what was needed to improve downtown Bethesda's Woodmont Triangle, were catalysts for the amenity fund idea.

"The planning staff was soliciting community input for the Woodmont Triangle amendment," Trawick said. "We got together to say, 'What is the community standpoint?' That's where we said, in the last 20 years, one of the things that would be helpful would be an amenity fund for the community to participate in the planning process."

New fund would enhance downtown Bethesda
And a way to make streets more walkable is to improve Norfolk Avenue and strategically place art anchors, like parks or public spaces, in the Woodmont Triangle, said Trawick, who testified on May 20 about the amenity fund at a Planning Board hearing on Woodmont Triangle.

Improvements would also allow residents to enjoy the "walkability" of the downtown and include festive lighting, café-style seating, brick sidewalks, underground utilities, benches, trees, street animation and gateways at appropriate side streets.

"We think of the Woodmont Triangle section as a dearly loved but aging spirit," she said at the hearing. "We want to tingle its spine. The spine of course is Norfolk Avenue whose five blocks have long been envisioned with an art identity."

Community leaders have suggested placing an arts incubator on Norfolk Avenue between Del Ray and Cordell avenues, and an art space off of Rugby Avenue. Trawick said the establishment of the fund will define community expectations and encourage the creation of public amenities that residents wish to use.

She said developers who wish to build optional method projects, larger projects in exchange for devoting resources to public amenities, will be able to donate that money to the amenity fund instead. Money from the fund could also be used to supplement government projects.

Trawick said residents from the Town of Chevy Chase and Edgemoor and East Bethesda communities support the idea. She said the idea is a "win" for stakeholders of the community, including residents who can take part in the process, developers who will be clear about expectations and what to look for in amenities and business owners pushing for the idea.

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Changing the Density of Our Neighborhoods Remains a Scary Subject for Too Many People

The Boston Society of Architects sponsored a conference in September at which 350 participants talked a lot about the D-word: Density. They agreed that, to most citizens, the D-word is suspect, if not scary.

Attendees acknowledged that proposals for new real estate development or new land-use and zoning policies inevitably are met with public skepticism and sometimes strident protest. People fear change. Proposals to modify existing communities conjure up visions of worsening gridlock, increased public service demands, higher taxes, lower property values, dysfunctional schools and unwanted social encounters.

In view of the negative responses, some conference participants suggested not using the D-word at all.

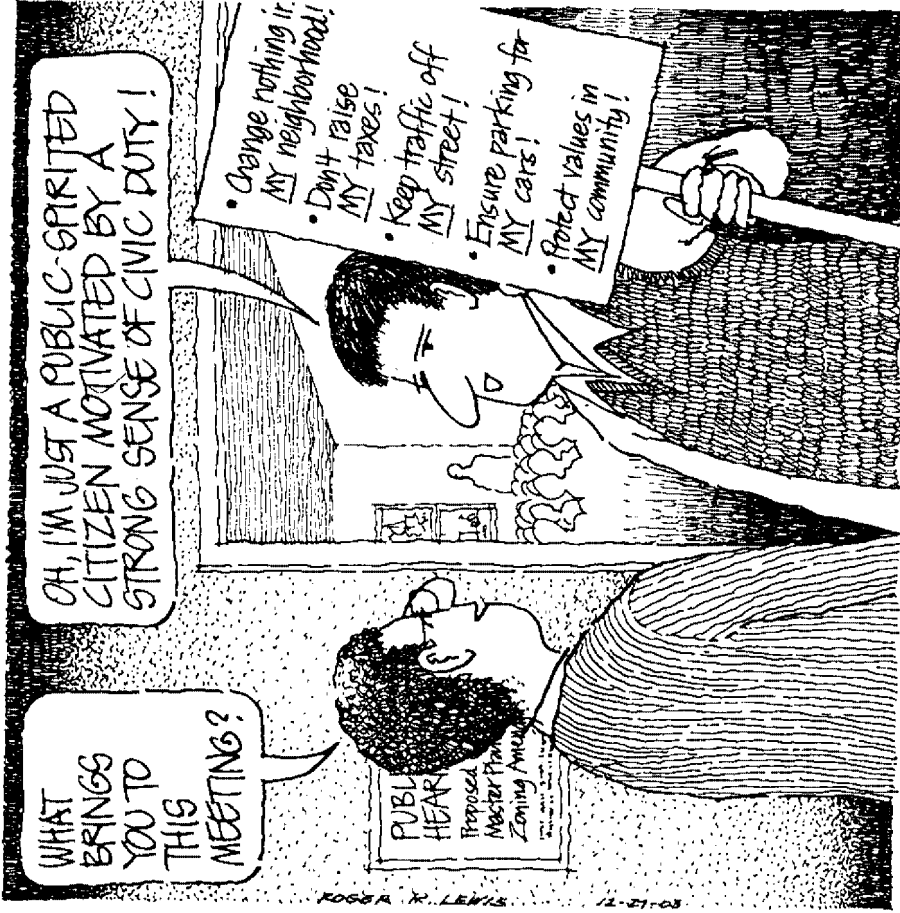
Two current initiatives in the Washington area clearly illustrate how the prospect of higher density generates public resistance.

The D.C. Office of Planning is advocating substantially increased density along Wisconsin Avenue NW from south of Tenleytown to the Maryland border at Friendship Heights. The Upper Wisconsin Avenue Corridor Study envisions larger, mixed-use buildings, including condominium and rental apartments as well as more office and commercial space. Density and building heights, potentially as much as 10 stories, would be greatest near the Tenleytown and Friendship Heights Metro stations.

Many residents in the area strongly object to the concepts and "smart growth" rationale put forth in the draft plan. They prefer that the existing zoning, and the predominantly low-scale character of the corridor, remain unchanged. Not surprisingly, at public meetings residents express their concerns about traffic and parking on local streets, and to some extent about the impact of increased density on neighborhood schools.

In Fairfax County, higher density is proposed for Tysons Corner. One of long-time developers of Tysons, Lerner Enterprises, plans to construct more buildings in which people can live and work, as well as narrower, pedestrian-friendly streets and smaller blocks.

In a recent story summarizing the history of Tysons Corner and describing its congested, pedestrian-unfriendly streets, Post reporter Neil Irwin wrote that "some of those living nearby are skeptical and upset" about higher densities. Like



their counterparts in the District, they dread ever-worsening traffic and feel that Tysons Corner is already "urban" enough.

Of course, increasing density at Tysons Corner is very much dependent on the Dulles Corridor Metrorail extension, now in jeopardy because financing was torpedoed earlier this month by the Herndon City Council.

What can we conclude from these

and on which they depend.

Much of the public doubts that growth and change, properly planned, are desirable as well as inevitable. And getting them to believe is difficult, given deep-seated attitudes:

- We are generous and charitable yet we can be quite selfish about paying taxes and investing in public-interest projects or programs that appear not to personally benefit us and our private property.
- We continue to believe that the ideal community consists of single-family detached houses on ample lots in low-density neighborhoods through which people from elsewhere should not drive or otherwise travel.

- We are still reluctant to reduce dependence on our cars, to drive less, walk more and ride mass transit. We also are not prepared to acknowledge and pay the true, long-term costs for energy, roads, parking lots and pollution.

- We worry and argue about "urban" vs. "suburban," usually linking the debate to geography. But we should abandon these unhelpful terms. Whatever it once was, however it began, who can doubt that Tysons Corner today is an urban environment? Do people living astride the upper Wisconsin Avenue corridor not realize that they live in an urban setting integral to the city?

- We are short-term thinkers. We have trouble envisioning the big picture and planning for distant futures when societal and personal needs, available technologies and economic resources will be different.

When I look at Tysons Corner or the upper Wisconsin Avenue corridor, the need for change seems undeniable. Both places are works in progress, still architecturally unsightly, hostile to pedestrians and underdeveloped. New, transit-oriented uses and higher densities, capitalizing on existing public infrastructure, would house growth that otherwise would go elsewhere. And some of that displaced growth could show up as low-density, ever-more-remote sprawl infecting the distant countryside.

If anything is wrong with future development plans for these places, one already served by transit and the other awaiting transit, it's the proposed densities. They might be too low.

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examples—only two among many—of persistent public resistance to development?

Polarization between proponents and opponents of growth is as great as ever. Those who manage and enable growth—real estate developers, designers, public-sector planners and regulators—have not succeeded in getting their message across. For whatever reasons, they have failed to educate or persuade the public they serve,

SHAPING THE CITY

Roger A. Lewis

Traditional Zoning Can't Meet the Challenge of Modern Development

Among the innovations championed by the New Urbanist or neo-traditional movement, and by many other architects and planners, are "form-based" zoning codes. The primary goal of form-based codes is to guide the configuration and architectural quality of urban and suburban environments. That contrasts with conventional zoning, which often concentrates on the use of buildings, such as whether a block is residential or commercial. Judging from the aesthetic dysfunction in much of what we have built, form-based codes are long overdue.

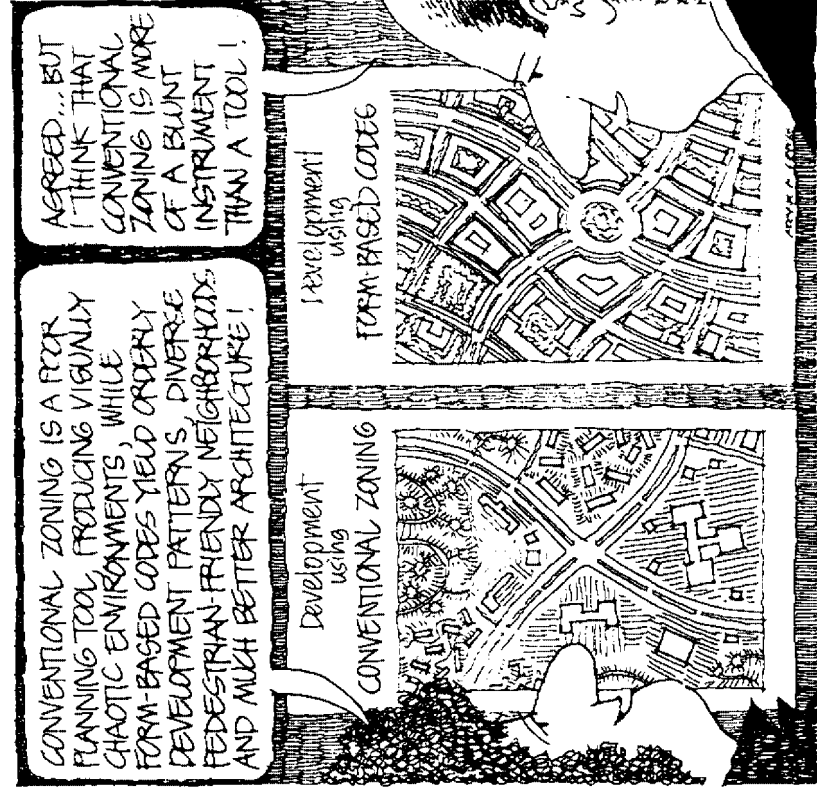
Actually, we should eliminate the term zoning. It implies separation, exclusion and disconnection, and it suggests nothing positive about how neighborhoods and buildings should look or relate to each other.

In Houston, a city without zoning, the term is taboo. In a recent report recommending new housing strategies for the city, I wrote that, in America, "planning is not zoning, and zoning is not planning. Conventional zoning generally has failed as an effective planning tool for creating balanced growth, good urban design, beautiful cityscapes, or affordable housing. In many jurisdictions, the effect of zoning has been to exclude the less affluent."

To further convince Houstonians of the merits of planning and land-use regulation, the report went on to state that "unconstrained by conventional zoning regulations, Houston has a unique opportunity that no other American city has: it can undertake effective planning not trumped or compromised by existing zoning." Conventional zoning ordinances divide a municipality or county into zones, define and designate the land use for each zone and stipulate for each zone and zoning category maximum densities and building heights, maximum lot coverage and minimum setback, yard and lot dimensions. Zoning regulations also often require minimum parking accommodations.

Historically, the purpose of zoning has been less as an urban design tool and more as a way to protect public health, safety and welfare, and private property values. Zoning presumably maps the future. Yet for many property owners, zoning's primary benefit is ensuring that potentially harmful, incompatible uses of neighboring properties will not threaten their properties and their legitimate uses.

But zoning codes, frequently drafted by lawyers rather than designers, tend to be too free and flexible where more guidance is needed and too limiting where flexibility is appropriate. Typically, the most constraining inflexibility concerns zone boundaries and use limitations, especially prohibitions against mixed-use development. The most problematic over-flexibility is the lack of clear criteria to guide site planning, streetscape design, building



ago, can seriously conflict with current planning and development aspirations.

Second, because land-use planning precedes land-use regulation, form-based codes must be based on well-researched, comprehensive master plans. Without such plans, there is no rational way to establish and legally justify form-based urban design. However, many jurisdictions have neither the resources nor the planning staff necessary.

Third, because some state charters and statutes—for example, in Virginia, Pennsylvania and Texas—limit local government's ability to tinker with land-use regulation and thus infringe on property rights, imposing requirements beyond those already in place can require state legislative approval.

Finally, because the concept of form-based codes is unfamiliar, a city or county cannot enact such a measure without first helping residents understand the concept. That requires diligent explanation, illustration and demonstration, including comparing alternative development scenarios that show what conventional zoning yields with what results from form-based zoning.

Probably the most feasible strategy is to make new plans for particular sectors within a jurisdiction where intense growth is desired or is likely to occur as a result of development trends, zoning or both. Form-based design and development criteria can then be applied as a zoning overlay, without rescinding existing ordinances or drawing totally new zoning maps.

A good example of that approach is the Carlyle neighborhood in Alexandria, a multi-block development south of Duke Street and west of Old Town. Now nearing completion after nearly 15 years of construction, Carlyle's overall urban pattern and architectural character are governed by a detailed master plan and form-based design criteria. The Alexandria City Council approved them as a special-purpose zoning overlay before a single spade of dirt was turned.

Form-based design regulations, rather than old-fashioned zoning, are shaping the redevelopment of the centers of Silver Spring and Rockville.

Fortunately, city and county planning officials throughout the United States, along with urban designers and architects, are increasingly acquainted with form-based codes. At the same time, there are more examples of new development shaped by form-based regulations instead of conventional zoning.

Thus, despite impediments, persuading constituents to embrace form-based codes should get easier.

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and institutional structures, schools, retail shopping, entertainment and sports venues. Unlike conventional zoning, they seek to erase rather than reinforce boundaries.

Form-based codes also regulate density, but they specify minimum as well as maximum densities and include reasonable provisions for increasing density where justifiable, such as near public transit stops.

Regrettably, implementing form-based zoning is not easy.

First, because long-standing zoning ordinances create vested property rights and values, any changes must take those rights and values into account and, to a reasonable extent, preserve them. Otherwise, changes can be confiscatory and unconstitutional. Yet preservation of the status quo, based on zoning maps drawn many decades

massing and architectural form.

Consequently conventional zoning has produced patchwork quilts of single-use districts and private enclaves, often with minimal vehicular, pedestrian or visual connections between neighboring zones. It guarantees automobile dependency and, within neighborhoods, reinforces socioeconomic homogeneity and isolation from other neighborhoods.

In contrast, form-based codes, while allowing great freedom in determining uses, establish definitive criteria for essential urban and architectural design elements: street network and block patterns; layout and configuration of public open space for parks and plazas; disposition of buildings, drives and parking; and height, volume and even facade design requirements for both general building types and special buildings—civic